IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
ORIGINAL JUDRISDICTION

Dated Nainital the March 22nd , 2006

Criminal Misc. Bail Application No. 43 of 2006

Order on the bail application of accused.

CRIMINAL SIDE

1. Kamil S/o Farooq
2. Gulbahar S/o Jafar
   R/o village Madho pur
   P.S. Gangnahar
   District Haridwar ……Applicants

Versus

State of Uttaranchal ……. Opposite Party

Arising out of case crime No.164 of 2006
Under Sections 147, 148, 149, 336, 323, 307, 302, 504, 506 IPC
P.S. Gangnahar
District Haridwar

Hon'ble J.C.S. Rawat, J.

Heard Sri S.P.S. Panwar learned senior counsel for the applicants, Sri Rajendra Singh learned counsel for the complainant and Sri Amit Bhat learned A.G.A. for the State.

Perused the record. Learned counsel for the applicants contended that the present applicants has been charged under sections 147, 148, 149, 336, 323, 307, 302, 504, 506 IPC and it has been alleged in the FIR that they were having the countrymade revolvers and fired upon the deceased. Postmortem report reveals that there are two gunshot injuries on the person of the deceased, but these two injuries were caused by only one gunshot. One injury was caused by entry of the bullet and second was the result of exit of bullet from the body of the deceased. No specific role has been assigned that who fired upon the deceased and by whose countrymade revolver the deceased sustained the injury. Learned A.G.A. could not show whether specific role has been assigned to the accused persons. Counter affidavit filed by the learned A.G.A. does not contain this fact also.

It was contended that there is a cross version of the incident under section 147, 148, 149, 336, 323, 307, 302, 504, 506 IPC. It was contended that during the remand the case was converted into section

307 IPC and the chargesheet was submitted under section 324 IPC and other sections. It was further contended that co-accused Farooq has already been released on bail by this Court on two grounds. First ground was that the role assigned by Farooq was not significant and the second ground on which he was released on bail is that the cross version was available. Perusal of the medical report reveals that the injuries No. 1 & 2 are of vital nature and the prosecuting0 0has not explained how these injuries were cause. The cross version is also there. It has to be decided during the trial that who is the aggressor in the facts and circumstances of the case, it is a fit case for bail.

Let the applicant-accused be released on bail on executing a personal bond and two sureties each in the like amount to the satisfaction of the C.J.M. concerned.

(J.C.S. Rawat, J.)

Dated 23.03.2006
LSR